

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kristen Lanham-Hostetter	Team: Team # 1	CCRB Case #: 201106032	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/06/2011 2:40 PM	Location of Incident: Marmion Avenue and Crotona Park North; 48th Precinct stationhouse; Bronx Central Booking	Precinct: 48	18 Mo. SOL 11/6/2012	EO SOL 11/6/2012	
Date/Time CV Reported Sun, 05/06/2012 11:06 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/11/2011 1:01 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Damian Rivera	14398	922858	NARCB BX
2. LT Osvaldo Nunez	00000	918086	NARCB BX
3. POM Jeremy Veit	18814	935920	NARCB BX
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Esteban Abreu	17247	941310	NAR DIV
2. SGT Andres Rodriguez	03925	931940	BX CT

Officer(s)	Allegation	Investigator Recommendation
A.LT Osvaldo Nunez	Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez stopped the car in which § 87(2)(b) was an occupant.	
B.LT Osvaldo Nunez	Discourtesy: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez spoke obscenely to § 87(2)(b)	
C.LT Osvaldo Nunez	Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez threatened § 87(2)(b) with the use of force.	
D.POM Damian Rivera	Discourtesy: At Marmion Avenue and Crotona Park North and at the 48th Precinct stationhouse, PO Damian Rivera spoke obscenely to § 87(2)(b)	
E.POM Damian Rivera	Abuse: At Marmion Avenue and Crotona Park North, PO Damian Rivera threatened § 87(2)(b) with the use of force.	
F.LT Osvaldo Nunez	Abuse: At the 48th Precinct stationhouse, LT Osvaldo Nunez authorized the strip search of § 87(2)(b)	
G. An officer	Discourtesy: At Bronx Central Booking, an officer spoke obscenely to § 87(2)(b)	
H.POM Jeremy Veit	Force: At Bronx Central Booking, PO Jeremy Veit used physical force against § 87(2)(b)	
I.POM Damian Rivera	Force: At Bronx Central Booking, PO Damian Rivera used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

This complaint was reported to the Internal Affairs Bureau by Sgt. Andres Rodriguez on May 6, 2011. § 87(2)(b)'s complaint was received at the CCRB on May 11, 2011, under log number 11-20880.

On May 6, 2011, § 87(2)(b) was pulled over while driving at Marmion Avenue and Crotona Park North in the Bronx. The following allegations ensued:

- **Allegation A – Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez stopped the car in which § 87(2)(b) was an occupant. § 87(2)(g)**  
§ 87(2)(b)  
§ 87(2)(b)
- **Allegation B – Discourtesy: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez spoke obscenely to § 87(2)(b)**
- **Allegation C – Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez threatened § 87(2)(b) with the use of force.**
- **Allegation D – Discourtesy: At Marmion Avenue and Crotona Park North and at the 48th Precinct stationhouse, PO Damian Rivera spoke obscenely to § 87(2)(b)**
- **Allegation E- Abuse: At Marmion Avenue and Crotona Park North, PO Damian Rivera threatened § 87(2)(b) with the use of force. § 87(2)(g)**  
§ 87(2)(b)  
§ 87(2)(g)
- **Allegation F – Abuse: At the 48th Precinct stationhouse, LT Osvaldo Nunez authorized the strip search of § 87(2)(b) § 87(2)(g)**  
§ 87(2)(b)  
§ 87(2)(g)
- **Allegation G - Discourtesy: At Bronx Central Booking, an officer spoke obscenely to § 87(2)(b)**  
§ 87(2)(g)  
§ 87(2)(b)
- **Allegation H – Force: At Bronx Central Booking, PO Jeremy Veit used physical force against § 87(2)(b)**
- **Allegation I – Force: At Bronx Central Booking, PO Damian Rivera used physical force against § 87(2)(b) § 87(2)(g)**  
§ 87(2)(b)  
§ 87(2)(g)
- § 87(4-b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) -old Hispanic male who stands 5'8" tall, weighs 185 pounds, and has brown hair and brown eyes. § 87(2)(b)

### IAB Interview

§ 87(2)(b) was interviewed by Internal Affairs officers inside § 87(2)(b) on May 6, 2011 (encl. 8a). In his interview, § 87(2)(b) stated that he got arrested. When he was arrested, the officer did not respect him, and verbally assaulted him. § 87(2)(b) told the officer to respect him. From there, "everything" happened. § 87(2)(b) talked to "the guy," who came to him and told him to, "Shut the fuck up and go to the back." § 87(2)(b) asked why he talked to him that way and "the guy" told to go to move back. § 87(2)(b) moved, and an officer opened the door, turned § 87(2)(b)'s hand, and put him in handcuffs. When he turned his hand, § 87(2)(b) thought he was going to break it and told him that "you don't have to do that." The officer "put him to the wall," and the officer's partner "jumped" and punched him in the face two times. The IAB officer asked him if that was where he got that small scratch. § 87(2)(b) did not respond and told the IAB officer that he got a bruise on the back of his head, and wanted a photo to be taken. The IAB officer assured him that he would take photos, and to answer his questions in the meantime.

§ 87(2)(b) stated that he hit the floor with his head, and "he" punched § 87(2)(b) in the face two times and jumped. § 87(2)(b) mentioned the presence of that officer, his partner, and three other officers. The IAB officers interviewing him asked § 87(2)(b) (whose speech was slurred and seemed to have trouble completing thoughts) if he was on medication. § 87(2)(b) replied that he was on medication for bipolar, inciting, depression, for night time, and for asthma. He mentioned that he took the following medications: Ciraquil, Cyprus, Clamopine, and Ambien.

### Statements to Medical Provider

On May 6, 2011, § 87(2)(b) was seen at § 87(2)(b) in the Bronx, where he complained of lower back pain, and an abrasion to the left eyebrow due to being restrained by the NYPD, and denied experiencing a loss of consciousness.

On May 11, 2011, § 87(2)(b) was seen at § 87(2)(b)'s office, where he reported being pulled over by "undercover cops who took me in and roughed me up...they found a small [amount of marijuana]." § 87(2)(b) reports that a bruise of his left eye and back of head are from police. He denied recreational drug use in the past year.

§ 87(2)(b) was seen at § 87(2)(b) before and after the incident. After this incident, on May 21, 2011, § 87(2)(b) reported severe discomfort in his back, with pain felt in the lower extremities. § 87(2)(b) stated that the exacerbation of his back pain is due to two police officers, who beat him up. This resulted in a laceration of his right eyebrow, injury to his right knee, facial injuries, ecchymosis [bruising] and redness to the back of his head. § 87(2)(b) informed § 87(2)(b) that he is filing a lawsuit against the NYPD (encl. 8e-g).

### CCRB Statement

§ 87(2)(b) provided a phone statement on May 13, 2011, was interviewed at the CCRB on May 27, 2011, and answered additional questions on January 31, 2012 (encl. 8h-o). § 87(2)(g) On May 6, 2011, sometime between 9:00pm and 10:00pm, § 87(2)(b) was driving his girlfriend's Gold Ford Explorer SUV from her house to his residence, where he was going to

work on the car for her. § 87(2)(b) had not been drinking and had not taken any drugs, including the medications he is prescribed for depression, bipolar disorder, or his methadone.

§ 87(2)(b) was driving on Crotona Park North, near the intersection of Marmion Avenue, in the Bronx. He saw a light green Maxima that was changing lanes in traffic quickly, and without signaling. § 87(2)(b) who was behind the vehicle when it cut in front of him, honked, told the driver of the car, “Sir, be careful,” before he utilized his turn signal and drove around the car. The car then followed § 87(2)(b) who did not realize the driver was a police officer. The car then cut in front of § 87(2)(b) and stopped ahead of him. The driver of the vehicle, identified by investigation as LT Nunez of Narcotics Borough Bronx, the only person in the car, exited and approached § 87(2)(b). LT Nunez, who was dressed in plainclothes, was described as a Hispanic male, standing 6’2” tall, with a “husky” build, a square head and square face, black hair parted on the side, light brown skin, brown eyes, black hair, and approximately 45-years-old. LT Nunez showed his badge and asked § 87(2)(b) “What fucking happened?” and, “Are you fucking crazy? Do you have drugs?” § 87(2)(b) said, “Sir, I’m not driving crazy. You made me almost hit you because you did not signal that you were going to stop.” LT Nunez asked § 87(2)(b) if he was doing drugs and if he was “fucking high.” In his phone statement, § 87(2)(b) did not allege that anyone used profanity during this portion of the incident. § 87(2)(b) told him he did not have to talk to him like that. LT Nunez said, “Look how you’re dressed.” § 87(2)(b) who was wearing dirty blue jeans and a blue shirt, told LT Nunez that he was going to go work on the car, and that the officer should not judge people by how they’re dressed.

At an unknown time during his interaction with the sole officer on scene, LT Nunez asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) walked to the back of his vehicle, where he alternated between standing and sitting on his bumper. § 87(2)(b) asked LT Nunez if he was going to ask for his license or registration, and LT Nunez told him no, that he just wanted to search his car. LT Nunez told § 87(2)(b) that if he was hiding drugs, he should tell him, and informed § 87(2)(b) that he believed he was drunk or high. LT Nunez then radioed for additional officers and stated that he had a situation in which someone almost hit the back of his car. § 87(2)(b) asked LT Nunez why he was treating him that way, and LT Nunez told him to, “shut the fuck up.” § 87(2)(b) protested the officer’s use of language, and LT Nunez repeated to “shut the fuck up” before he “beat” him. § 87(2)(b) said, “Ok sir, whatever you say. You win.” In his phone statement, § 87(2)(b) did not allege that any profanity was used at this time, or that anyone threatened him with of force.

Approximately five minutes later, during which § 87(2)(b) remained standing at the back of his car, a grey unmarked minivan arrived. Inside the van were approximately three officers § 87(2)(b) was not sure of the number of officers who arrived). The officers § 87(2)(b) described were identified by investigation as PO Damian Rivera, PO Jeremy Viet, and PO Esteban Abreu, of Narcotics Borough Bronx. PO Rivera was described as a Hispanic male standing 5’ tall, with a thick black mustache, two bald spots on the top of his head, a belly, wearing an oversized Yankees shirt, light blue jeans, and Nike sneakers. § 87(2)(b) believed he was approximately 58-years old, and thought he was a sergeant because the other officers referred to him that way. PO Viet was described as a white male standing 6’3” tall, with a neck that was red, approximately 38-years-old. PO Abreu was described as a Hispanic male standing 5’8” tall, with short curly hair, a light brown complexion, a small belly, wearing a brown jacket and a hat.

After the additional officers arrived and approached § 87(2)(b) LT Nunez asked § 87(2)(b) again if he had drugs, if he was high, if he was drunk, and whether he had guns or drugs in his car. LT Nunez reiterated that if § 87(2)(b) did have anything illegal, he should tell him. § 87(2)(b) stated that he did not have anything like that. PO Rivera told § 87(2)(b) to “shut the fuck up” and to answer the questions LT Nunez asked him. In his phone statement, § 87(2)(b) did not allege any profanity against PO Rivera at this time. § 87(2)(b) stated that he had nothing to hide. LT Nunez said something that § 87(2)(b) did not remember about searching § 87(2)(b)’s car, and § 87(2)(b) told him that he could do whatever he wanted,

and that it was his girlfriend's car. PO Rivera told PO Veit and PO Abreu to check the car and to "find something." § 87(2)(b) told the officers they could search the car, but that they would not find anything.

PO Veit and PO Abreu searched § 87(2)(b)'s car. He was not sure how they entered his car or exactly where they searched because he was not paying attention, but he did notice that the officers found an empty pack of cigarettes on the floor behind one of the front seats. The officers found the end of a marijuana "roach" which was approximately two centimeters long, inside the cigarette carton. While PO Veit and PO Abreu searched his vehicle, PO Rivera told § 87(2)(b) to "shut the fuck up," and told § 87(2)(b) "I'm going to beat your ass." § 87(2)(b) told the officers that the marijuana was not his, and that it was his girlfriend's car. PO Rivera told § 87(2)(b) that he should get his girlfriend, and she could account for the marijuana. § 87(2)(b) objected and said that if they wanted to arrest someone, they could arrest him. At some point, § 87(2)(b) said something about knowing his rights. PO Rivera told § 87(2)(b) "you have no fucking rights," which § 87(2)(b) did not allege in his phone statement. § 87(2)(b) reiterated that he knew he had rights. PO Rivera told him to "shut the fuck up," and said that § 87(2)(b) was a junkie and that he did not have any rights. § 87(2)(b) also did not make these allegations in his phone statement. An officer that may have been PO Veit handcuffed § 87(2)(b). PO Rivera then told § 87(2)(b) to get in the van "before I beat your ass," which is a statement § 87(2)(b) did not allege in his phone statement. The door to the van had been opened soon after the officers arrived, and inside the van were two arrestees, who § 87(2)(b) believed heard much of what PO Rivera said to him. One of the arrestees was identified by investigation as § 87(2)(b) and was described by § 87(2)(b) as a black female who stood 4'8" tall, had a skinny build and was in her fifties. The other person in the van was identified by investigation as § 87(2)(b) and was described by § 87(2)(b) as a Hispanic male in his forties, standing 4'8" tall, with a bald head and medium brown skin.

§ 87(2)(b) got into the van and was transported to the 48<sup>th</sup> Precinct stationhouse. His vehicle was left at the scene. In his phone statement, § 87(2)(b) alleged that PO Rivera told him to "shut the fuck up," numerous times in the van. § 87(2)(b) did not repeat this allegation in his CCRB statement.

When they arrived at the stationhouse, § 87(2)(b) was taken to the front desk where his arrest was logged in. He was then taken to a bathroom by PO Veit who made § 87(2)(b) take off his shirt, pants, and boxer shorts, bend over at the waist, and separate his buttocks. When § 87(2)(b) lowered his boxer shorts, a small "half twenty" bag of marijuana fell to the ground from where he had been storing it: between his testicles and the leg of his boxer shorts. When he went back to the holding cell, § 87(2)(b) could hear PO Veit tell PO Rivera something, and they both laughed. § 87(2)(b) asked why they were laughing, and PO Veit told him to "shut the fuck up" and to go back to the cell because he was already searched. § 87(2)(b) went back to the cell where he spoke to § 87(2)(b) who told him that PO Rivera found one half gram of cocaine inside his pants.

Inside the holding cells, there were approximately thirteen other people. Someone else's arresting officer gave one of the men a pack of cigarettes, which the man shared with others in the cell. § 87(2)(b) took a few puffs of a cigarette before PO Rivera told § 87(2)(b) to give the cigarette back, and said "You're not going to smoke here, mother fucker." § 87(2)(b) told PO Rivera that he did not care, and continued to smoke. PO Rivera told him to drop the cigarette, and § 87(2)(b) refused. PO Veit opened the cell, rear handcuffed § 87(2)(b) and left him in the cell. § 87(2)(b) verbally protested being handcuffed inside the cells. § 87(2)(b) did not mention this portion of the incident in his phone statement, and he did not attribute the above profanity to PO Rivera, but did allege that PO Rivera told him "shut the fuck up," several times inside the stationhouse. § 87(2)(b) also did not allege that any officers entered the cell and handcuffed him, and stated that he was in handcuffs when he was placed in the cells in the first place.

§ 87(2)(b) was transported to Central Booking by PO Rivera and PO Veit, where he waited inside a cell. He was handcuffed to § 87(2)(b) who he was speaking to. PO Veit or PO Rivera told § 87(2)(b) to "shut the fuck up." § 87(2)(b) asked him what was wrong and why he had something personal against him. The officer (either PO Veit or PO Rivera) repeated for § 87(2)(b) to "shut the fuck up" and "go back." In his phone statement, § 87(2)(b) attributed the phrase, "shut the fuck up," to PO Rivera at this

time. § 87(2)(b) asked the officer (either PO Viet or PO Rivera) if he was upset because some of the inmates were “messaging with” his wife. PO Veit then opened the gate of the cell, and tried to turn § 87(2)(b)'s arm behind his back. § 87(2)(b) believed that PO Veit was trying to break his arm. In his phone statement, § 87(2)(b) stated that he was not sure whether it was PO Veit or PO Rivera who tried to move his hands behind his back). § 87(2)(b) did not want the officer to break his arm, so he moved his arm back to his side (in his phone statement he stated that he moved his hands in front of him). He and PO Veit then fell backwards against a wall. PO Veit tried to hold onto § 87(2)(b) which caused § 87(2)(b)'s upper back to be scratched. PO Veit dropped him to the floor, which caused § 87(2)(b)'s head to hit the floor, as well as his back. As a result of hitting his head, § 87(2)(b) felt a little dizzy. In his phone statement, § 87(2)(b) alleged that PO Veit, PO Rivera, and two other unknown officers brought him to the floor, causing § 87(2)(b) to hit his head on the ground and lose consciousness. When § 87(2)(b) provided additional information via phone later, § 87(2)(b) stated that the force in Central Booking occurred when he was told to wait for a gate to open, and that PO Rivera warned him to move out of the way. When § 87(2)(b) failed to do so, PO Rivera came into the cell to handcuff him, and that after he refused to allow his hand to be brought behind his back, he and PO Rivera fell against a wall. At this time, PO Veit came in to assist PO Rivera and “jumped” on § 87(2)(b). He was unable to provide details of what PO Veit did. In his CCRB statement, § 87(2)(b) stated that he opened his eyes, looked up and saw PO Veit punching him in the face four times, which cut the top of his left eye, and caused him to have black eyes, and a bloody nose. In his phone statement, § 87(2)(b) alleged that he felt, but did not see, his face being punched, and he estimated that three officers punched him. When he answered additional questions via phone, § 87(2)(b) stated that PO Rivera was the one who punched him. Following this force, he was left bloody in the cell.

PO Rivera and PO Veit transported § 87(2)(b) to § 87(2)(b) where he was interviewed by officers from the Internal Affairs Bureau. After being treated for asthma, § 87(2)(b) was transported back to Central Booking by two unidentified plainclothes officers.

After § 87(2)(b) was released from Central Booking, he took pictures of his injuries, and then went to see his primary care doctor because he did not trust the doctor he saw during the incident. The doctor advised him to get an MRI for his back, as § 87(2)(b) had to use a cane every day after the incident, whereas he used to only use a cane periodically.

### **Photos**

The IAB officers who interviewed § 87(2)(b) on May 6, 2011, took three photos. Photo 1 shows a small laceration, approximately one cm long underneath § 87(2)(b)'s left eyebrow, as well as a small bruise above and below the eyebrow. Photo 2 shows the back of § 87(2)(b)'s head. No bruises or lacerations are evident. His ankles are shackled. Photo 3 shows a chest tattoo and some faint red marks on § 87(2)(b)'s chest (encl. 8b-d).

Immediately after § 87(2)(b) was released from Central Booking on May 6, 2011, § 87(2)(b) took photos number 6 and 7. All other photos, § 87(2)(b) took of his injuries on May 7, 2011. Photos 1 and 2 show a bruise and bump over his left eye which he received from being punched. Photos 3 and 4 show shows a bruised bump on the back left side of his head which he received when he hit the floor in Central Booking. Photo 5 shows a bruise on the top right side of his forehead which he was not sure of the cause. Photos 6 and 7 showed the indentations from the handcuffs. Photo 8 showed a scratch mark on the left top part of § 87(2)(b)'s back/shoulder, caused in the struggle in Central Booking. Photo 9 showed bruises on § 87(2)(b)'s lower back from the struggle in Central Booking (encl. 8p-s).

### **Attempts to Contact Civilians**

On September 13, 2011, first please call letters were sent to § 87(2)(b) and § 87(2)(b). A white pages search was conducted the same day, and no results were found. The results of a Lexis Nexis search, received on September 13, 2011, yielded no results for § 87(2)(b) and yielded

one Philadelphia address, one Brooklyn address, and several phone numbers for individuals named “§ 87(2)(b)”. On September 20, 2011, the first please call letter sent to § 87(2)(b) was returned by the USPS. On October 7, 2011, the first please call letter sent to § 87(2)(b) was returned by the USPS. On October 12, 2011, first please call letters were sent to the § 87(2)(b) in Philadelphia and Brooklyn. On October 12, 2011, a call was placed to one of the possible phone numbers. The owner of the phone confirmed that the number was dialed correctly, but that there was no one named § 87(2)(b) there. The same day, calls were placed to the other two possible phone numbers. A voicemail was left on one, and a voicemail could not be left at the other due to a full mailbox. On October 18, 2011, the letter sent to § 87(2)(b) in Philadelphia was returned by the USPS. On October 20, 2011, a final please call letter was mailed to § 87(2)(b) in Brooklyn. The same day, the investigator called both remaining possible phone numbers for § 87(2)(b). The voicemail box for one phone number was still full and a voicemail was unable to be left. At the second number, an individual picked up, stated that no § 87(2)(b) lived there, and hung up the phone. On October 28, 2011, the letter sent to § 87(2)(b) in Brooklyn was returned by the USPS. On October 28, 2011, a DMV search provided a more complete version of the Bronx address on § 87(2)(b)'s arrest report. A first please call letter was mailed to that location. There were no hits for § 87(2)(b). On November 15, 2011, a final please call letter was sent to § 87(2)(b) at the Bronx address. The same day, the investigator called § 87(2)(b) at the final phone number, and the mailbox was still full. On December 9, 2011, the investigator called § 87(2)(b) again and left a voicemail. On December 16, 2011, the second letter sent to § 87(2)(b) at the Brooklyn address was returned by the USPS.

#### **NYPD Statements:**

##### **Subject Officer: LT OSVALDO NUNEZ**

- § 87(2)(b) -old Hispanic male who stands 6'1" tall, weighs 230 pounds, and has brown hair and black eyes.
- On the date of the incident, LT Nunez was the 48<sup>th</sup> Precinct module supervisor for Narcotics Borough Bronx. He worked with PO Viet and PO Rivera, and other officers he did not remember. LT Nunez was assigned to a dark sedan, by himself, and wore plainclothes. He worked from 9:30am through 9:15pm.

#### **Memo Book**

LT Nunez noted in his memo book that at 4:35pm, he authorized a strip search due to an evasive answer and shifting. During a search incident to arrest § 87(2)(b) was found in possession of one Ziploc bag of marijuana in his underwear. The search was noted in the command log, pages 61 through 62 (encl. 9a-b).

#### **CCRB Statement**

LT Nunez provided a statement at the CCRB on March 20, 2012 (encl. 9c-e). On the date of the incident, LT Nunez was in the vicinity of Marmion Avenue and Crotona Park North when he saw an SUV (later determined to be driven by § 87(2)(b) backing down Crotona Park North, traveling the wrong way. § 87(2)(b) was traveling very fast, and he almost hit LT Nunez's vehicle. LT Nunez put his car in reverse and backed up a few feet in order to give § 87(2)(b) space. LT Nunez was listening to his team on the radio at the time and believed that he might have to leave to apprehend someone from a buy and bust operation, so he was unable to conduct a car stop at that time.

Approximately three to four minutes later, there was a lull in the buy and bust case and LT Nunez saw § 87(2)(b) again. He was driving in an unsafe manner, going very fast, slamming on his brakes, and then taking off very quickly. LT Nunez decided to pull him over and did so by engaging a red “bubble light” in his car, as he did not have a siren. § 87(2)(b) was pulled over based on the unsafe driving.



LT Nunez stopped his car behind § 87(2)(b)'s and approached the vehicle on the driver's side. As he approached the driver's seat of § 87(2)(b)'s car, he immediately saw a small marijuana cigarette, partially smoked and not lit, sitting in plain view on the center console of § 87(2)(b)'s car.

When LT Nunez arrived outside the driver's seat of § 87(2)(b)'s car, § 87(2)(b) rolled down his window, and LT Nunez smelled a strong odor of marijuana in the car. LT Nunez did not remember any other specific details about the cigarette that led him to believe it was marijuana.

§ 87(2)(b) seemed like he was under the influence of prescription drugs or narcotics because his eyes were glossy, his speech was not coherent, he spoke very fast, appeared nervous, and because he also mentioned being on some type of medication. Since he was by himself, LT Nunez called for PO Viet and PO Rivera to come to his location. While he awaited them, LT Nunez asked § 87(2)(b) questions, such as where he was going, if he took narcotics or prescription pills and what he did for a living. § 87(2)(b) answered his questions. LT Nunez remembered that he said that he took some sort of psychotropic antidepressant and that he was a street mechanic and was not affiliated with any particular garage. At some point, § 87(2)(b) stated that the car belonged to his girlfriend, but that he worked out of it as a mechanic. LT Nunez remembered that the vehicle was "a mess," and was full of tools and old clothes.

Approximately two to three minutes later, PO Viet and PO Rivera arrived. He instructed § 87(2)(b) to exit the car, which he did, and he was walked to the back of his car. § 87(2)(b) was under arrest for the marijuana on the console. LT Nunez instructed one of the officers to search the immediate area where § 87(2)(b) had been sitting, but he did not remember which officer ended up conducting the search. LT Nunez authorized the search of the vehicle because § 87(2)(b) was under arrest for the marijuana in plain view and because officers search the immediate area where an arrest occurred. At some point, § 87(2)(b) stated that the marijuana joint belonged to his girlfriend. LT Nunez asked § 87(2)(b) to tell him if he had anything else, and § 87(2)(b) swore that the only marijuana he had was the marijuana joint that they found in the car.

When § 87(2)(b) was being handcuffed, he resisted by pulling his arms in front of him. However, between LT Nunez, PO Viet, and PO Rivera, § 87(2)(b) was easily handcuffed. He was placed into the prisoner van, and did not resist going into the vehicle. Throughout the time that LT Nunez observed § 87(2)(b) he appeared to be very nervous, and appeared to be under the influence of pills, or he missed a dose. He was not calm or coherent, and he became more difficult as time went by.

§ 87(2)(b) was transported to the 48<sup>th</sup> Precinct stationhouse, where LT Nunez met him. LT Nunez believed that he, PO Viet and PO Rivera were all present in the vicinity of the front desk when PO Rivera searched § 87(2)(b). LT Nunez believed that at this time, a Ziploc container of marijuana fell out of § 87(2)(b)'s pant leg. He did not see this occur and believed that PO Rivera told him. LT Nunez did not know if § 87(2)(b) reacted when the marijuana fell out of his pants. Based on the marijuana they found in the car, the fact that more marijuana was found on § 87(2)(b) after he swore that he had no other marijuana, the fact that the prisoner van officers (he did not remember who was assigned to the P-van) told him that § 87(2)(b) was moving and shifting his body a lot as though he was removing something from his waistband, LT Nunez authorized a strip search of § 87(2)(b).

§ 87(2)(b) was strip-searched in a private place in the 48<sup>th</sup> Precinct stationhouse, although LT Nunez did not know exactly where in the stationhouse it occurred since he was not present and because he does not usually work at that location. LT Nunez was not sure who conducted the strip search and believed it might have been PO Rivera. The officer who conducted the strip search reported that an additional bag of marijuana was found in § 87(2)(b)'s underwear during the strip search. LT Nunez did not know what areas of the body would have been searched, and stated that per the rules a strip search would include removing clothing, but that body cavities would not be searched.

LT Nunez believed that PO Rivera and another officer took § 87(2)(b) to Central Booking. Later, when LT Nunez returned to his office, he got a phone call saying something along the lines of that at Central Booking, prior to taking photos, § 87(2)(b) had "lost it," and started fighting. PO Rivera needed to use force to handcuff him, and he had help from other officers, as well as corrections officers. Central

Booking medical staff would not accept § 87(2)(b) and sent him to the hospital as a potential EDP. LT Nunez never observed any injuries on § 87(2)(b) and did not go to Central Booking.

LT Nunez did not curse at § 87(2)(b) and never said or heard officers say the following: “What fucking happened?” “are you fucking crazy?” “are you fucking high?” “Shut the fuck up,” “shut the fuck up before I beat you,” “you have no fucking rights,” “get in the van before I beat your ass,” or, “you’re not going to smoke in here motherfucker.”

**Subject Officer: PO DAMIAN RIVERA**

- § 87(2)(b) -old Hispanic male who stands 5’8” tall, weighs 230 pounds, and has brown hair and brown eyes.
- On the date of the incident, PO Rivera was assigned to the maroon unmarked prisoner van number 7381 with PO Viet. PO Rivera was wearing plainclothes and was on duty from 9:27am until 9:00pm.

**Memo Book**

PO Rivera noted in his memo book that at 4:00pm, he arrived at the 48<sup>th</sup> Precinct stationhouse. At 8:00pm, he transported three prisoners to Central Booking. At 11:55pm, he was relieved by other officers at § 87(2)(b) (encl. 10a-b).

**CCRB Statement**

PO Rivera provided a statement at the CCRB on February 17, 2012 (encl. 10c-d). § 87(2)(g)

PO Rivera did not remember any portion of the incident prior to interacting with § 87(2)(b) in the holding cells at Bronx Central Booking. He did not recognize § 87(2)(b) from his arrest photo or his CCRB photo.

PO Rivera remembered that a Hispanic male (identified as § 87(2)(b)) was being “disruptive” in the holding cell in Bronx Central Booking. He did not remember exactly what § 87(2)(b) did to be disruptive. PO Rivera entered the holding cell in order to remove § 87(2)(b) from the “daisy chain,” (a type of restraint similar to handcuffs that is often used in the transport of multiple prisoners) and handcuff him individually. He told § 87(2)(b) to put his hands behind his back. When PO Rivera went to remove the daisy chain and place § 87(2)(b) in handcuffs, § 87(2)(b) pulled his arm away. In order to handcuff § 87(2)(b) PO Rivera faced § 87(2)(b) s back and had to forcibly bring § 87(2)(b) s arms behind his back. In the process of doing so, § 87(2)(b) and PO Rivera both fell to the ground. When they fell, PO Rivera landed on top of § 87(2)(b) § 87(2)(b) was handcuffed while he was on the ground. PO Rivera, who was the only officer in the holding cell at this time, only remembered bringing § 87(2)(b) s hands behind his back to handcuff him, and did not recall ever punching § 87(2)(b) The entire process of handcuffing § 87(2)(b) including the “struggle,” last approximately 30 seconds. At this time, PO Viet was not present, as he was elsewhere in Central Booking completing other steps necessary to log prisoners. PO Rivera did not remember exactly where he was, just that he was not with him at this time. There were other, unknown officers in a hallway outside of the holding cell, logging their own prisoners, but none present nearby.

When § 87(2)(b) stood up after being handcuffed, PO Rivera noticed that he had a laceration on his forehead. PO Rivera believed the laceration occurred at some point during the “struggle,” but did not know exactly what caused it.

The intake supervisor at Central Booking was notified of what happened in the holding cell and he notified his own supervisor. PO Rivera was interviewed by a sergeant or a lieutenant from IAB about what happened. Later, PO Rivera and PO Viet transported a prisoner to § 87(2)(b) PO Rivera did not believe the prisoner was § 87(2)(b)

PO Rivera did not curse at § 87(2)(b) and did not say or hear other officers say the following: “What fucking happened?” “Are you fucking crazy?” “are you fucking high?” “shut the fuck up,” “shut the fuck up before I beat you,” “you have no fucking rights,” “get in the van before I beat your ass,” or, “you’re not going to smoke in here, motherfucker.” He did not do or see officers search § 87(2)(b)’s vehicle, strip-search § 87(2)(b) or punch § 87(2)(b).

**Witness Officer: PO ESTEBAN ABREU**

- § 87(2)(b) year-old Hispanic male who stands 5’9” tall, weighs 210 pounds, and has brown hair and brown eyes.
- On the date of the incident, he was assigned as the arresting officer, in plainclothes. PO Abreu worked with Det. Mieses, Lt. Nunez, PO Viet, Det. Castro, Det. Martinez, and Detective O’Hara. He was assigned to a grey unmarked van with Det. Mieses. Lt. Nunez was assigned to a Nissan Ultima, and PO Rivera and PO Viet were in the prisoner van. PO Abreu worked from 9:27am until 6:00pm.

**Memo Book**

PO Abreu noted that at 2:10pm, arrived at the corner of Fairmount Place and Marmion Avenue (encl. 12a-b).

**OLBS Report**

The OLBS report notes that § 87(2)(b) was observed with a quantity of marijuana in a public place. He was under arrest at 2:20pm, and was later strip-searched (encl. 12d-f).

**CCRB Statement**

PO Abreu was interviewed at the CCRB on January 19, 2012 (encl. 12g-i). On the date of the incident, Lt. Nunez summoned PO Abreu and Det. Mieses over the radio to his location at Crotona Avenue and Marmion Avenue in the Bronx. When they arrived, PO Abreu saw § 87(2)(b) was already housed in the prisoner van.

LT Nunez handed PO Abreu § 87(2)(b)’s keys and wallet. PO Abreu put those items in a yellow folder that is allocated for prisoner property, and gave that bag to PO Rivera, who was in charge of property, as an officer assigned to the prisoner van. LT Nunez told PO Abreu to get in his car, and that he would tell him what happened at the stationhouse. PO Abreu got into LT Nunez’s Nissan Ultima after being at the scene less than seven minutes, and Det. Mieses stayed with the van he arrived in. PO Viet stayed with the prisoner van, and PO Rivera either drove § 87(2)(b)’s vehicle to 48<sup>th</sup> Precinct stationhouse or parked the car and gave § 87(2)(b)’s wife the keys. PO Abreu did not remember which.

At the stationhouse, LT Nunez told PO Abreu what happened. He did not remember exactly what he was told but believed that LT Nunez said something about § 87(2)(b) almost hitting him with his car, and that § 87(2)(b) had marijuana in plain sight. The information LT Nunez provided him with is the information he conveyed put on the arrest information.

At some point, PO Rivera and PO Viet strip-searched § 87(2)(b) Rivera in the bathroom, as it is the responsibility of the officers from the prisoner van to do so. This was approved by LT Nunez. PO Abreu believed the search took place in the bathroom, although he was not present for the search. He did not know why the strip search was authorized, and did not know if § 87(2)(b) did anything to lead officers to believe he had contraband. PO Abreu did not know if anything was found on § 87(2)(b) as a result of the strip search, although he did know that marijuana was found on § 87(2)(b) at some point.

PO Rivera and PO Viet transported § 87(2)(b) to Central Booking. PO Abreu did not accompany them to Central Booking and did not see § 87(2)(b) again. He did not know anything about § 87(2)(b) smoking in the cells, and explained that after being removed from cells and before being brought into the van to go to Central Booking, it is traditional to allow the prisoners to smoke a cigarette. However, there is not smoking in the van or the cells.

PO Abreu never spoke to, or interacted with § 87(2)(b). He never said, or heard any other officers say the following, “What fucking happened?” “Are you fucking crazy?” “Are you fucking high?” “Shut the fuck up,” “Shut the fuck up before I beat you,” “You have no fucking rights,” “Get in the van before I beat your ass,” “You’re not going to smoke here, mother fucker.” He did not make or hear any physical threats being made, and he never had physical contact with § 87(2)(b). PO Abreu did not know if § 87(2)(b) received any injuries, and did not know if he took or needed any medication. When PO Abreu observed § 87(2)(b) in the stationhouse, his demeanor was “very quiet,” and he had stopped sweating at some point.

**Subject Officer: PO JEREMY VIET**

- § 87(2)(b) -old white male who stands 6’2” tall, weighs 200 pounds, and has blue eyes and brown hair.
- On the date of the incident, PO Viet was assigned to the maroon unmarked prisoner van number 7381 with PO Rivera. PO Viet was wearing plainclothes and was on duty from 9:27am until 9:00pm.

**Memo Book**

PO Viet noted the following in his memo book. At 2:40pm, PO Viet was in the vicinity of Crotona Park North and Marmion Avenue. At 4:25pm, he arrived at the 48<sup>th</sup> Precinct stationhouse. At 8:00pm, he transported three prisoners to Bronx Central Booking. At 11:00pm, he transported one prisoner to § 87(2)(b). At midnight, he was relieved at the hospital by the midnight shift prisoner van officers (encl. 11a-c).

**CCRB Statement**

PO Viet was interviewed at the CCRB on February 7, 2012 (encl. 11d-e). He did not remember the incident and did not recognize photos of § 87(2)(b).

**Witness Officer: SGT ANDRES RODRIGUEZ**

- § 87(2)(b) -old Hispanic male who stands 5’5” tall, weighs 180 pounds, and has black hair and brown eyes.
- On the date of the incident, Sgt. Rodriguez was the Bronx Central Booking supervisor, in uniform, from 2:21pm until 11:05pm.

**Memo Book**

As assignments at Central Booking are administrative, officers assigned there do not keep memo books.

**CCRB Statement**

Sgt. Rodriguez initially did not remember the incident. He was showed § 87(2)(b)’s arrest photo, which he recognized, although he could not recall how he recognized § 87(2)(b). The investigator informed Sgt. Rodriguez that § 87(2)(b) made allegations against an officer who brought him to Central Booking, and that an IAB referral was created. Sgt. Rodriguez reviewed the IAB referral, which refreshed his memory of the incident. He then stated that he believed the officer who brought him in was from narcotics. Sgt. Rodriguez, who was at the desk at the time, did not witness the incident. The desk is located two doors down from the holding cell room. When Sgt. Rodriguez is seated at the desk, he cannot see the cells because the EMS room blocks his view. In order to see to the cells, he would have had to stand in front of the desk and look to the left.

The officer who brought § 87(2)(b) in informed him that when he attempted to remove § 87(2)(b) from the chain of other inmates (the “daisy chain”) and handcuff him individually so that he could take his photo, § 87(2)(b) became uncooperative and threw himself on the ground. He sustained a small laceration to his left eyebrow. Due to the minor injury, Sgt. Rodriguez notified IAB. He checked on § 87(2)(b) to make sure he was OK, but did not interact with him. Sgt. Rodriguez focused on obtaining

medical attention for § 87(2)(b). He described § 87(2)(b)'s demeanor as "sweaty" and "breathing heavily." He remembered that § 87(2)(b) did not say much. § 87(2)(b) did not mention any officers telling him to "shut the fuck up," or that his arm was twisted or that he was punched. Sgt. Rodriguez did not observe any of these actions, nor did he hear any officers say "shut the fuck up" (encl. 13a-b).

### **Officers not interviewed**

Officer statements place Det. Raymond Miele on scene for part of the incident at Marmion Avenue and Crotona Park North. However, Det. Miele retired on July 1, 2011, and was therefore not interviewed.

### **Medical Records**

§ 87(2)(b) was brought to § 87(2)(b) in police custody at 11:07pm on May 6, 2011. The examination noted lower back pain and an abrasion to the left eyebrow, with mild swelling. § 87(2)(b) denied ever losing consciousness. § 87(2)(b)'s medical history includes bipolar disorder and asthma. § 87(2)(b) requested a refill of methadone. An albuterol asthma inhaler was provided.

§ 87(2)(b) visited § 87(2)(b) on § 87(2)(b). On § 87(2)(b), § 87(2)(b) was seen for chronic lower back pain and leg pain, for which he uses a cane. § 87(2)(b) reported that he has mild bipolar disorder for which he takes medicine, and that he uses marijuana. On § 87(2)(b), § 87(2)(b) was "markedly incapacitated" due to severe discomfort in his back, with pain felt in the lower extremities. He had a laceration of his right eyebrow, injury to his right knee, facial injuries, ecchymosis [bruising] and redness to the back of his head. The doctor reported § 87(2)(b) was much worse than the last time he was seen in the doctor's office. On June 23, 2011, § 87(2)(b)'s MRI films were examined, which showed spinal disk bulges and multi-level disk degeneration. Percocet and Flexeril were prescribed.

§ 87(2)(b) visited the office of § 87(2)(b) on § 87(2)(b) for a follow-up about chronic back pain after a motor vehicle accident in 2000, chronic hepatitis C infection, insomnia, and routine health monitoring. The doctor observed no abnormalities in his gait. § 87(2)(b) was wearing a brace on his right knee and had a mild redness of the skin. He had bruising to his left eye and the left side of his scalp, both of which were thought to be consistent with blunt trauma (encl. 14a-hh).

### **NYPD Documents**

#### **48<sup>th</sup> Precinct Command Log**

§ 87(2)(b) and § 87(2)(b) were signed into the command log at 4:25pm on May 6, 2012. § 87(2)(b) and § 87(2)(b) were both arrested for § 87(2)(b), and § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b) and § 87(2)(b)'s command log entries note that they were strip searched, and that they were authorized by LT Nunez (encl. 15i-j).

#### **48<sup>th</sup> Precinct and Bronx Central Booking Holding Pen Roster**

The holding pen rosters confirm that § 87(2)(b) and § 87(2)(b) were in the 48<sup>th</sup> Precinct holding cells at the same time, and that they were all transported together to Bronx Central Booking at the same time, where they had several hours of overlap in the holding cells (encl. 15o-bb).

### **Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of June 28, 2012, with regard to the incident (encl. 20k).

### Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]

### Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 5a).

### Subject Officers CCRB History

- PO Damian Rivera has been a member of the service for thirteen years and there are no substantiated CCRB allegations against him (encl. 3a-b).
- PO Jeremy Veit has been a member of the service for eight years and there is one substantiated CCRB allegation against him. An allegation of a threat of force was substantiated against him in case number 201017490, for which the CCRB recommended charges. The NYPD has not yet come to a disposition regarding this case (encl. 4a).
- LT Osvaldo Nunez has been a member of the service for sixteen years and there is one substantiated CCRB allegation against him. An allegation of force, using a radio as a club, was substantiated against LT Nunez in case number 200100569. The CCRB recommended charges, and the NYPD disposition was not guilty (encl. 2a-c).

### Conclusion

### Identification of Subject Officers

LT Nunez and PO Rivera acknowledged interacting with § 87(2)(b) § 87(2)(g)

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] alleged that an officer who accompanied him to Bronx Central Booking cursed at him, but he was not sure whether the officer in question was PO Rivera or PO Veit. § 87(2)(g)

[REDACTED]  
PO Veit did not remember the incident, but did acknowledge that he was assigned to the prisoner van on the date of the incident. In his CCRB interview, § 87(2)(b) specifically attributed the use of force to one of the officers who transported him that day, and who fit PO Veit's description. § 87(2)(g)

§ 87(2)(g)

### **Allegations Not Pleaded**

§ 87(2)(b) provided the officers permission to search the car. § 87(2)(g)

### **Investigative Findings and Recommendations**

#### **Allegation A – Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez stopped the car in which § 87(2)(b) was an occupant.**

§ 87(2)(b) alleged that LT Nunez almost hit his vehicle immediately prior to stopping his car. LT Nunez testified that he stopped § 87(2)(b) after observing him engage in traffic infractions and unsafe driving. Both § 87(2)(b) and LT Nunez stated that no one else was present when LT Nunez conducted the car stop. After the car stop was initiated, marijuana was found and § 87(2)(b) was placed under arrest for § 87(2)(b) and no mention was made of dangerous driving in his arrest documentation.

§ 87(2)(g)

#### **Allegation B –Discourtesy: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez spoke obscenely to § 87(2)(b)**

#### **Allegation C – Abuse: At Marmion Avenue and Crotona Park North, LT Osvaldo Nunez threatened § 87(2)(b) with the use of force.**

#### **Allegation D – Discourtesy: At Marmion Avenue and Crotona Park North and at the 48th Precinct stationhouse, PO Damian Rivera spoke obscenely to § 87(2)(b)**

#### **Allegation E- Abuse: At Marmion Avenue and Crotona Park North, PO Damian Rivera threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that during the car stop, LT Nunez cursed at him and threatened him with force. According to § 87(2)(b) once additional officers arrived, PO Rivera cursed at him several times, both in the vicinity of Marmion Avenue and Crotona Park North, and later in the 48<sup>th</sup> Precinct stationhouse. He also alleged that PO Rivera threatened him with force in the vicinity of Marmion Avenue and Crotona Park North. § 87(2)(b)'s IAB statement, statements to his medical providers, phone statement, and CCRB statements were all inconsistent in many instances, especially in terms of what language was used by what officer, and when.

LT Nunez denied cursing at § 87(2)(b) or threatening him with force, or hearing other officers do so. PO Rivera only remembered interacting with § 87(2)(b) in Bronx Central Booking, and did not remember the portion of the incident in which the allegations occurred. PO Veit, who was present with PO Rivera, did not remember the incident at all.

§ 87(2)(b) and § 87(2)(b) the witnesses who were known to be near § 87(2)(b) when the allegations occurred, were not able to be reached.

§ 87(2)(g)

**Allegation F – Abuse: At the 48th Precinct stationhouse, LT Osvaldo Nunez authorized the strip search of § 87(2)(b)**

§ 87(2)(b) stated that marijuana was found in his vehicle when it was searched by officers. He also stated that marijuana was found on his person where he had it hidden, between his leg and his testicles, when he was strip-searched in the 48<sup>th</sup> Precinct stationhouse.

LT Nunez testified that he was told by officers assigned to the prisoner van that day that § 87(2)(b) was shifting while seated in the back of the van, in a way that seemed like he was removing something from his waistband. For this reason, because of the marijuana that was found in § 87(2)(b)'s vehicle, and because he believed that additional marijuana may have been found when § 87(2)(b) was searched in front of the desk, LT Nunez authorized § 87(2)(b) to be strip-searched.

Patrol Guide Procedure 208-05 stipulates that a strip search may be conducted only when the arrestee is reasonably suspected of concealing weapons, contraband, or evidence in such a manner that it would not be discovered through regular search methods (encl. 1a-b).

§ 87(2)(g)

§ 87(2)(g)

**Allegation G - Discourtesy: At Bronx Central Booking, an officer spoke obscenely to § 87(2)(b)**

§ 87(2)(b) testified that either PO Veit or PO Rivera cursed at him in Central Booking, but he did not know which. Since both PO Veit and PO Rivera denied using profanity towards § 87(2)(b) officer testimony does not narrow down the identity of the potential subject officer. § 87(2)(g)

**Allegation H – Force: At Bronx Central Booking, PO Jeremy Veit used physical force against § 87(2)(b)**

**Allegation I – Force: At Bronx Central Booking, PO Damian Rivera used physical force against § 87(2)(b)**

In his phone statement, § 87(2)(b) alleged that he was not sure what officer tried to place his hand behind his back in the Bronx Central Booking holding cell. He alleged that PO Veit, PO Rivera, and two other unknown officers brought him to the floor, causing him to hit his head and lose consciousness. On the ground, he felt but could not see his face being punched. He estimated that three officers punched him.

In his CCRB statement, § 87(2)(b) said that PO Veit moved his arm behind his back and brought him to the ground, which caused him to be dizzy but not lose consciousness. When he opened his eyes, he saw PO Veit punching him in the face.

When § 87(2)(b) later answered additional questions by phone, he stated that PO Rivera told him to get out of the way of a gate, and when he failed so, PO Rivera entered the cell and attempted to handcuff him. § 87(2)(b) refused to be handcuffed, and when he refused to allow his hand to be brought



behind his back, he and PO Rivera fell to the ground. PO Veit then entered the cell and assisted PO Rivera by “jumping” on § 87(2)(b) stated that PO Rivera punched him.

Although § 87(2)(b) made the allegation of force against PO Veit in his CCRB statement, he is inconsistent about who actually used force against him and what actually happened to him. He told the officers during the incident that had not taken his medications for depression and bipolar disorder, as well as his methadone treatment, which may have affected his perception of the incident, as well as his memory of it.

PO Veit was present at Bronx Central Booking but did not recall what he did there or what happened during the incident in general. PO Rivera remembered this portion of the incident and acknowledged struggling with § 87(2)(b) inside the holding cell at Bronx Central Booking. He also stated that he was the only officer present when this occurred. His testimony matches the police documents, including the IAB call-out, which notes that he was the officer § 87(2)(b) made allegations of force against.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: 1

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date